

9:50 am, Sep 28, 2018

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSE ALFONSO ZELAYA JAIME,

Plaintiff,

-against-

DAVID AND SON'S CONSTRUCTION
CORP., and DAVID GRANADOS,

Defendants.

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MEMORANDUM OF
DECISION & ORDER
2:17-cv-01499 (ADS) (ARL)

APPEARANCES:

Neil H Greenberg & Associates, P.C

Counsel for the Plaintiff

4242 Merrick Road

Massapequa, NY 11758

By: Keith E. Williams, Esq.
Neil H. Greenberg, Esq., Of Counsel.

SPATT, District Judge:

On March 17, 2017, plaintiff Jose Alfonso Zelaya Jaime (the "Plaintiff") commenced this action seeking to recover unpaid wages pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* ("FLSA") and the New York Labor Law §§ 190 *et seq.* ("NYLL"). ECF 1.

On December 13, 2017, the Clerk of the Court certified defendants David and Son's Construction Corp. and David Granados (the "Defendants") default based upon their failure to answer or otherwise appear in this action. ECF 9.

On February 12, 2018, the Plaintiff filed the instant motion for a default judgment. ECF 11.

On February 13, 2018 the Court referred the motion to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether a recommendation as to whether the motion

should be granted and if so, (1) the relief to be granted; (2) whether damages should be awarded, including reasonable attorneys' fees and costs; and (3) whether any other relief should be granted.

On August 30, 2018 Judge Lindsay issued a Report and Recommendation (the “R&R”) recommending that the Plaintiff’s motion for default judgment be granted and that the Plaintiff be awarded damages in the following amounts: \$59,095.74 in minimum wages; \$27,951.73 in overtime wages; \$7,053.25 for spread-of-hours wages; \$5,000 for wage notice violations and \$5,000 for wage statement violations; \$94,100.72 in liquidated damages and prejudgment interest at the rate of 9% per annum through the date of entry of judgment for a total amount of \$198,201.44 plus post-judgment interest. ECF 12.

The Plaintiff filed proof of service on September 13, 2018. ECF 13.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Plaintiff’s motion for default judgment is granted. The Plaintiff is awarded damages in the amounts explained in the R&R.

SO ORDERED.

Dated: Central Islip, New York

September 28, 2018

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge